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OLC 75-1032

8 May 1975

MEMORANDUM FOR THE RECORD

SUBJECT: Requests under the Freedom of Information Act for Agency documents provided Select Committees and the President's Commission

1. At the request of Mr. Cary and prompted by a discussion by the Information Review Committee, I called Jim Kronfeld, Staff Member, House Government Operations Subcommittee on Government Information and Individual Privacy, and discussed chances of securing a quick amendment to the Freedom of Information Act to relieve the Agency from responding to requests under the Freedom of Information Act for Agency documents provided to the House and Senate Select Committees and the President's Commission investigating CIA. I explained that the Agency must respond under the law, however, the public disclosure of these documents makes it difficult for the Agency to respond to the Select Committees and the President's Commission. I added that there were some in the Agency who feel that such an amendment should be expanded to include information provided to all committees of Congress.

2. Kronfeld stated that the amendment would have no chance in this Congress. When the Act was before Congress last year, the managers of the bill made clear that the Act should not be burdened by numerous exemptions to cover specific problems. The resolution of any problems was considered best handled by collateral legislative action.

3. Kronfeld felt that if the Chairmen of the House and Senate Select Committees feel seriously affected, the best solution is to seek a Joint Resolution specifically requiring that the heads of agencies cannot publicly disclose any information provided to the Select Committees and the President's Commission without the express approval of the Select

Committees. Kronfeld did not know whether the Joint Resolution would be legally sufficient to override the Freedom of Information Act or whether a Public Law specifically referencing the Act would be needed. He said he would look into this and call me.

4. Attached is the substance of a proposed amendment to the Freedom of Information Act and the substance of a Joint Resolution or Public Law.



Assistant Legislative Counsel

STATINTL

Attachment

Distribution:

Original - Subject file (FOIA Book)

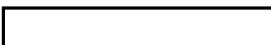
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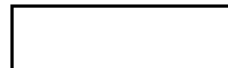
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Add as exemption b (10) to Title 5 Section 552 (Freedom of Information Act)

"(10) furnished upon lawful demand to a standing Committee or Select Committee of the Congress unless specifically approved by the head of the agency or department and the Chairman of the Committee or Select Committee concerned."

Proposed Joint Resolution:

Whereas, the House Select Committee on Intelligence and the Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities have been duly established by the Congress to investigate the activities of the intelligence community and whereas the deliberations of these bodies is in executive session to assure a full and complete examination of all pertinent facts, it is resolved that any documents or any other material furnished by the head of any agency or department to either of these Select Committees shall not be publicly disclosed without the express approval of the Chairmen of these Select Committees and the head of the particular agency or department involved.